

AARON & PATERNOSTER, LTD.  
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Attorneys for Debtor(s)

**UNITED STATES BANKRUPTCY COURT**  
**DISTRICT OF NEVADA**

In Re:	)	Chapter 13 Proceedings
	)	Case No.: 09-23792-LBR
	)	
<b>HAROLD SMITH and ROSA SMITH</b>	)	
	)	
	)	
Debtor(s).	)	DATE: OST
	)	TIME: OST

**DEBTORS' MOTION FOR CONTINUATION OF AUTOMATIC STAY  
IN CASE FILED AFTER PRIOR DISMISSAL WITHIN YEAR OF FILING  
ON ORDER SHORTENING TIME**

COMES NOW, Debtors, HAROLD SMITH and ROSA SMITH, by and through their attorneys, AARON & PATERNOSTER LTD., and moves this court pursuant to 11 U.S.C. section 362 (c)(3)(B) for an order continuing the automatic stay provided under section 302(a) as to all creditors, and states:

1. Debtors filed a petition under Chapter 13 on July 31, 2009.
2. Debtors had previously filed a Chapter 13 case petition on September 7, 2008, 08-20252-LBR, which was subsequently dismissed on April 17, 2009.
3. Debtor's previous case was dismissed as a result of a Conditional Order filed by the Trustee to file a new Chapter 13 plan. Debtors were waiting for their loan modification to be approved so their plan would be feasible when the case was dismissed.
4. Debtors' petition in this case has been filed in good faith. Debtors have been advised of their plan payment obligations.
5. Debtors believe that the Chapter 13 plan they have submitted will be confirmed and that they will be able to fully perform under the terms of the plan.

1           6. Debtors' prior Chapter 13 case, dismissed on April 17, 2009 was the only case filed  
2 by Debtors during the preceding year.

3           7. Debtors' prior Chapter 13 case was not dismissed because the Debtor failed to provide  
4 adequate protection as ordered by the court.

5           8. Debtors' prior Chapter 13 case was not dismissed in order to avoid a pending motion  
6 for relief from stay.

7           WHEREFORE, Debtors request this Court continue the automatic stay under section 362 (a)  
8 as to all creditors for the duration of this chapter 13 proceeding, or until such time as the stay is  
9 terminated under section 362 ( c ) (1) or ( c ) (2), or a motion for relief is granted under section 362  
10 (d).

11 Dated this 6<sup>th</sup> day of August, 2009.

12  
13                                   AARON & PATERNOSTER LTD.

14                                   /s/ Matthew Aaron, Esq.  
15                                   Matthew Aaron, Esq.  
16                                   2300 W. Sahara Ave., 650  
17                                   Las Vegas, NV 89102  
18                                   702-384-4111  
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**AFFIDAVIT OF ROSA SMITH**

STATE OF NEVADA )  
COUNTY OF CLARK ) ss.

I, ROSA SMITH, being first duly sworn, under oath and penalties of perjury, hereby deposes and says:

1. My name is ROSA SMITH and I am the Debtor in a Chapter 13 Case 09-23792-LBR.

2. Prior to filing the instant bankruptcy on July 31, 2009, I was a debtor in a prior Chapter 13 Bankruptcy, Case 08-20252-LBR which was dismissed on April 17, 2009.

3. I filed the instant bankruptcy in order to make a good faith effort to pay my creditors.

4. The instant bankruptcy was filed in good faith and I respectfully request that the Court find that the circumstances above provided clear and convincing evidence rebutting a presumption that the instant filing was in bad faith.

5. Accordingly, I request that the Court extend the automatic stay until completion or dismissal of the instant bankruptcy.

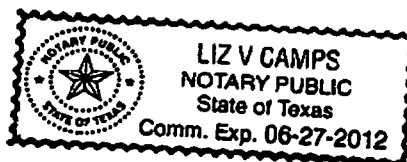
6. In light of my recent filing, I require the immediate intervention of this Honorable Court with respect to this matter.

  
ROSA SMITH

SUBSCRIBED and SWORN to before me

this 06 day of August, 2009.

  
NOTARY PUBLIC In and for said  
County and State



**AFFIDAVIT OF HAROLD SMITH**

STATE OF NEVADA }  
COUNTY OF CLARK } ss.

I, HAROLD SMITH, being first duly sworn, under oath and penalties of perjury, hereby deposes and says:

1. My name is HAROLD SMITH and I am the Debtor in a Chapter 13 Case 09-23792-LBR.

2. Prior to filing the instant bankruptcy on July 31, 2009, I was a debtor in a prior Chapter 13 Bankruptcy, Case 08-20252-LBR which was dismissed on April 17, 2009.

3. I filed the instant bankruptcy in order to make a good faith effort to pay my creditors.

4. The instant bankruptcy was filed in good faith and I respectfully request that the Court find that the circumstances above provided clear and convincing evidence rebutting a presumption that the instant filing was in bad faith.

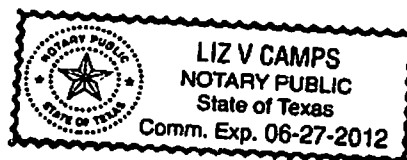
5. Accordingly, I request that the Court extend the automatic stay until completion or dismissal of the instant bankruptcy.

6. In light of my recent filing, I require the immediate intervention of this Honorable Court with respect to this matter.

*Harold Smith*  
HAROLD SMITH

SUBSCRIBED and SWORN to before me  
this 5th day of AUGUST, 2009.

*Liz V Camps*  
NOTARY PUBLIC In and for said  
County and State



CERTIFICATE OF MAILING

1. On August 6, 2009, I served the following document(s)

Motion for Continuation of Automatic Stay in Case Filed After Prior Dismissal Within One Year of Filing on Order Shortening Time

2. I served the above-named document(s) by the following means to the persons as listed below:

☒ a. ECF System (You must attach the "Notice of Electronic Filing", or list all persons and addresses and attach additional paper if necessary.)

Trustee Kathleen Leavitt: courtsecf3@las13.com

☒ b. United States mail, postage fully prepaid, addressed as follows:  
(List persons and addresses. Attach additional paper if necessary.)

See Attached Mailing Matrix

☐ c. Personal Service (List persons and addresses. Attach additional paper if necessary)  
I personally delivered the document(s) to the persons at these addresses:

☐ For a party represented by an attorney, delivery was made by handing the document(s) to the attorney or by leaving the documents(s) at the attorney's office with a clerk or other person in charge, or if no one is in charge by leaving the documents(s) in a conspicuous place in the office.

☐ For a party, delivery was made by handing the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

☐ d. By direct email (as opposed to through the ECF System)  
(List persons and email addresses. Attach additional paper if necessary)  
Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ e. By fax transmission (List persons and fax numbers. Attach additional paper if necessary)  
Based upon the written agreement of the parties to accept service by fax transmission or a court order, I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission is attached.

☐ f. By messenger (List persons and addresses. Attach additional paper if necessary) I served the document(s) by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a messenger for service. (A declaration by the messenger must be attached to this Certificate of Service.)

I declare under penalty of perjury that the foregoing is true and correct.

Signed on : August 6, 2009

  
An employee of Aaron & Paternoster, LTD



Harold Smith  
Rosa Smith  
3418 Wild Filly Lane  
North Las Vegas, NV 89032

ACA  
Acct No xxxx-xx8748  
3025 W. Sahara Avenue  
Las Vegas, NV 89102-6094

Barclays Bank Delaware  
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125 S West St  
Wilmington, DE 19801

Beneficial/Hfc  
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Po Box 1547  
Chesapeake, VA 23327

Cap One  
Acct No xxxxxxxx8461  
Po Box 85520  
Richmond, VA 23285

Cbna  
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O Fallon, MO 63368

Check City  
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5861 W. Craig Road, Ste 104  
Las Vegas, NV 89130

Chrysler Financial  
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Troy, MI 48098

Cit Bank/Dfs  
Acct No xxxxxxxxxxxxxx1576  
12234 N Ih 35 Sb Bldg B  
Austin, TX 78753

DELL FINANCIAL SERVICES LLC  
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C/O RESURGENT CAPITAL SERVICES  
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Greenville, SC 29603-0390

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Salt Lake City, UT 84101

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Gemb/Sams Club  
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Po Box 981400  
El Paso, TX 79998

Hsbc Bank  
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Carol Stream, IL 60197

Kohls/Chase  
Acct No xxxxxxxx8452  
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Menomonee Falls, WI 53051

Lane Bryant Retail/Soa  
Acct No xxxxxxxxxxxx8871  
450 Winks Ln  
Bensalem, PA 19020

Midland Credit Mgmt  
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8875 Aero Dr  
San Diego, CA 92123

MoneyTree, Inc.  
Acct No x61-29  
4210 W. Craig Road, #106  
North Las Vegas, NV 89030

Pacific Anesthesia Constultants  
Acct No xxx0930  
P.O. Box 14907  
Las Vegas, NV 89114-4907

QC Financial Services  
Acct No xxx-xxxx0901  
dba Quik Cash #731  
3149-d N. Rancho Drive  
Las Vegas, NV 89130

Rc Willey Home Furnishings  
Acct No xxxxxx3929  
2301 S 300 W  
Salt Lake City, UT 84115

Saxton Mortgage  
Acct No xx1437  
4708 Mercantile Drive, North  
Fort Worth, TX 76137

Select Portfolio Servicing  
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Po Box 65250  
Salt Lake City, UT 84165

Select Portfolio Servicing  
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P O Box 65250  
Salt Lake City, UT 84165-0250

Spring Valley Hospital  
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PO Box 31001-0827  
Pasadena, CA 91110-0827

Thd/Cbsd  
Acct No xxxxxxxxxxxx1499  
Po Box 6497  
Sioux Falls, SD 57117

Toyota Motor Credit Co  
Acct No xxxxxxxxxxxxxx0001  
10040 N 25th Ave Ste 200  
Phoenix, AZ 85021

Unvl/Citi  
Acct No xxxxxxxx2871  
Po Box 6241  
Sioux Falls, SD 57117

Wells Fargo Bank  
Acct No xxxxxx0171  
Po Box 5445  
Portland, OR 97228

Wfnnb/Lane Bryant  
Acct No xxxxxxxxxxxxxx4941  
4590 E Broad St  
Columbus, OH 43213